

### **Remarks/Arguments**

Claims 1-6 and 16-19 were in the application. Applicants have cancelled claims 2-5 and claim 18 herein. Claims 1, 6, 16, 17, and 19 will remain in the application after entry of this amendment. A terminal disclaimer is enclosed herewith and the requisite fee is enclosed. Applicants hereby request reconsideration in view of the foregoing amendments and the arguments made below.

Applicants note that the Examiner has allowed claim 19. Applicants appreciate the Examiner's willingness to move this application towards allowance.

The Examiner has rejected claim 1 on the grounds of nonstatutory double patenting relative to U.S. Patent 6,664,559, and further stated that a "terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) may be used" to overcome this rejection. Applicants have submitted the requested terminal disclaimer herewith and trust that claim 1 is now allowable.

The Examiner has rejected claims 2-6 and claims 16-18 for failing to comply with 35 U.S.C. § 101 on the grounds of statutory double patenting relative to issued U.S. Patent 6,664,559. Applicants have canceled claims 2-5 and claim 18, rendering this rejection moot with respect to these claims. However, Applicants respectfully traverse this statutory double patenting rejection with respect to claim 6, 16, and 17. The Examiner has stated in his reasoning, in pertinent part, that "[t]here is no substantial difference in scope" between the claims of the patent and those of this application and that a "[s]light difference in wording" is not sufficient to change the scope of the claims. Applicants submit that there is more than just a slight difference in wording that distinguishes the present claims from the claims of the '559 patent.

Claim 6 of the present application recites a single charge oscillator array having two types of atoms which have been controllably placed in a host material. The numbers of atoms of each type are described by a formulaic expression wherein the numbers can take on many different values so long as the placement is "to impart substantially predictable properties." The only claim of the '559 patent that is drawn to a single charge oscillator array recites specific numbers of atoms, namely "a pair of atoms of a first type" and "a single atom of a second type."

Turning to claim 16 of the present application, it recites a semiconductor oscillator with a substrate and "contact electrodes." Claim 16 of the application is not limited to specific numbers

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of controllably placed atoms in each cell. The only claim in the '559 patent that is directed to a semiconductor oscillator however, contains recitations of "a pair of atoms of a first type" and "a single atom of as second type."

Claim 17 of the application depends from claim 16, and adds the formulaic language discussed with respect to claim 6. Again, there are no oscillator claims of any kind in the '559 patent that contain such recitations, thus, the wording of claim 17 is certainly different enough to avoid double patenting under section 101.

To the extent that the above-discussed claims might prompt a nonstatutory double patenting rejection as in the case of claim 1, the enclosed terminal disclaimer should obviate such a rejection. Applicants therefore believe that they have responded to all of the Examiner's concerns. Reconsideration of this application as amended is hereby requested.

Respectfully submitted,

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